

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|--------------------------------|
| JOHNNY GARDNER, | § |
| | § No. 664, 2010 |
| Defendant Below- | § |
| Appellant, | § |
| | § Court Below—Superior Court |
| v. | § of the State of Delaware |
| | § in and for New Castle County |
| STATE OF DELAWARE, | § Cr. ID No. 1001000400 |
| | § |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: January 25, 2011
Decided: February 15, 2011

ORDER

This 15th day of February 2011, it appears to the Court that, on January 25, 2011, the Clerk issued a notice to show cause why this appeal should not be dismissed pursuant to Supreme Court Rule 29(b) for the appellant's failure to diligently prosecute his appeal by not filing his opening brief and appendix. The appellant has failed to respond to the notice to show cause within the required 10-day period. Therefore, dismissal of this action is deemed to be unopposed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rules 3(b) and 29(b), that the within appeal is DISMISSED.

BY THE COURT:
/s/ Henry duPont Ridgely
Justice